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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

THE STATE OF TEXAS,)
Plaintiff)
)
)
VS.) CIVIL ACTION
) NO. 5-96CV91
)
THE AMERICAN TOBACCO)
COMPANY, ET AL)

ORAL DEPOSITION
OF
STUART YOFFE
August 29, 1997
(ACCOMPANIES VIDEOTAPE)

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

THE STATE OF TEXAS, Plaintiff
VS.) CIVIL ACTION
) NO. 5-96CV91
THE AMERICAN TOBACCO COMPANY; R.J. REYNOLDS TOBACCO COMPANY; BROWN & WILLIAMSON TOBACCO CORPORATION; B.A.T. INDUSTRIES, P.L.C.; PHILIP MORRIS, INC.; LIGGETT GROUP, INC.; LORILLARD TOBACCO COMPANY, INC.; UNITED STATES TOBACCO COMPANY; HILL & KNOWLTON, INC.; THE COUNCIL FOR TOBACCO RESEARCH-USA, INC. (Successor to Tobacco Institute Research Committee); AND THE TOBACCO INSTITUTE, INC., Defendants

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ORAL DEPOSITION OF STUART YOFFE

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ANSWERS AND DEPOSITION OF STUART YOFFE, a witness called by the DEFENDANT PHILIP MORRIS, taken before GLENDA FULLER, Certified Court Reporter for the State of Texas, on August 29, 1997, beginning at 9:24 o'clock a.m. and ending at 10:03 o'clock a.m., at the offices of the Maroney, Crowley, Bankston, Richard & Hull, 701 Brazos, Suite 1500, Austin, Texas 78701, pursuant to the Federal Rules of Civil Procedure.

APPEARANCES

For the Plaintiff:
NOT PRESENT

For the Defendant Philip Morris:
MARONEY, CROWLEY, BANKSTON,
RICHARDSON & HULL
By: Mr. John R. Nelson
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Also present:
Mr. Trey Perez, videographer
LEGAL MEDIA
(512) 708-1001

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STUART YOFFE, M.D.

EXHIBITS

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STUART YOFFE

was called as a witness and, having been first duly sworn, testified as follows:

EXAMINATION

BY MR. NELSON:

Q. Will you please state your full name for record?

A. Stuart J. Yoffe, Y-o-f-f-e, M.D.

Q. Dr. Yoffe, what's your current address?

A. [DELETED]

Q. Thank you. Dr. Yoffe, my name is John Nelson. You and I have met on one prior occasion, haven't we?

A. Yes, we have.

Q. And you've given depositions before to this -- before this deposition today, haven't you?

A. Yes, I have.

Q. There are a few agreements that I'd like to make with you that are standard at all depositions which I'm sure you're familiar with. And the first is that if I ask any question this morning that is unclear to you or you would like me to repeat in any way,

would you agree to ask me to repeat that question?
A. Yes, I will.
Q. And will you also agree that the responses you would give would be out loud as opposed to head nods or head shakes because it's sometimes difficult for the court reporter to decipher those?
A. Yes, I will.
Q. And would you also agree to make your answers clearly yes or no as opposed to huh-uh's or uh-huh's like that since those are also difficult to distinguish?
A. Yes, I will.
Q. Thank you. Finally, if at any time you need a break, would you please just ask that you need to take a moment and we'll be glad to stop and resume the deposition whenever you're ready to continue?
A. Yes.
Q. Thank you. Dr. Yoffe, did you review anything in preparation for your deposition this morning, any documents or anything of that nature?
A. Yes, I did.

Q. And what were those things that you reviewed?
A. I -- I looked at the two articles I've written regarding the studies on prevention of tobacco use in children that are published in the TMA, Texas Medicine.
Q. Okay. And did you review any other articles other than those two published in the TMA?
A. No, I did not.
Q. Dr. Yoffe, I'm going to hand you a clean copy -- a clean Xerox copy of both of those articles and would you please confirm whether these are indeed the articles which you were referring to?
A. Yes, they are.
MR. NELSON: Let's go ahead and have those marked as Defendants Exhibits 1 and 2.
(Yoffe Exhibits Nos. 1 and 2
(marked for identification.
Q. Dr. Yoffe, please give me a brief description of the substance of these articles. We'll come back to them more in detail, but just to set the stage of what we're discussing here. What do these

articles discuss?
A. Well, basically this -- these articles are the results of a study that I did in Washington County, the counties adjacent to Washington County and in College Station, Texas, over a four to four-and-a-half year period in which we designed -- I designed a program to stop children from beginning to smoke or use tobacco in any other form, and this is the results of the study that we did.
Q. Okay. Thank you. Before we return to those articles, please tell me about -- about your education after high school.
A. Certainly. I went to Washington & Lee University in Lexington, Virginia, and graduated in 1964. I then went to medical school at the University of Kentucky Medical School in Lexington, Kentucky. I think I said Lexington, Virginia. I always -- they're both Lexingtons. And graduated in 1968. I then did a pediatric internship and residency at Columbus Children's Hospital for two years, then spent two years in the Air Force at Tindall Air Force Base

achieving the rank of major. And following that, in 1972 I became a fellow of pediatric infectious diseases at Baylor College of Medicine, during which time I spent most of that time being involved with the bubble baby for seven of the 12 months and then decided against an academic career and finished up as a second-year pediatric resident at Baylor College of Medicine. I then became board certified in pediatrics in 1973, following which time I entered private practice in Houston.

Q. Thank you, Dr. Yoffe. Let's return, if we could, to your residency immediately following medical school. Where was that residency located again?

A. Columbus Children's Hospital. It was a branch of the Ohio State program in Columbus, Ohio.

Q. Thank you. And while you were a resident there, did you attain any -- any sort of recognition among your peers or recognition among the other residents in the program?

A. I'm -- I'm not sure --

Q. If I'm -- if I'm not -- if I'm not mistaken,

during residencies there are particular doctors that administer residencies for the other residents as the doctors themselves progress their residencies.

A. Not -- not really. We finished -- I finished the first two years. You mean, as opposed to becoming --

Q. Actually, I was referring to any -- any position of administration or something of that nature --

A. Not really. I was a senior resident --

Q. Okay.

A. -- because I only spent the two years rather than going to a third or fourth year.

Q. Okay. Thank you. And --

A. Actually, I had no choice at the time. The military -- it was during Vietnam and I was in a program called the Berry Program.

Q. Okay.

A. And they were quite definitive about where I would spend my third-year post-training.

Q. I understand that. Thank you. What were the qualifications or the prerequisites for your fellowship that you participated in at the Baylor College of Medicine?

A. Prerequisites are to finish the first two years of a pediatric training program and to get recommendations and to be accepted after a job interview and --

Q. Okay. Following your time in these -- in these professional and formal education times, please tell me about your professional career as it began and then as it developed over the next 15 to 20 years.

A. Probably the first attempt, which may be going back a little bit before you're interested from this standpoint, but I think from my standpoint, I helped to set up and design an anti-drug program when I was in the Air Force where we would take teenagers and work with them to stop them from using drugs, all kinds of drugs. In that case, it was marijuana, narcotics and everything. I did this in my free time in Panama City, Florida, and we received some recognition from -- it's called the Bay County Anti-drug Program, if I remember the specific name. And I did this for the two years that I was in Panama City on a volunteer basis. And it was a pretty good program that we were very

proud of and we had worked through the school districts in the area.

Then from a private practice standpoint, I came back and finished the year out at Baylor and went into private practice and was in private practice in Houston, Texas, doing pediatrics and also doing some allergy and immunology for about 12 years, at which time I had some health problems and decided to take a different tact, moved to Brenham, Texas, and opened up an immunology/allergy practice solely because pediatrics was not available for me with the health problems that I had and I've been doing that for the last 14 to 15 years.

Q. And you're currently practicing in the Brenham Independent -- Independent -- Brenham Independent Allergy Clinic and the area --

A. That's correct.

Q. -- surrounding those counties?

A. That's correct.

Q. Have you published any other articles or -- or papers other than the two which we've marked for exhibits in this deposition?

A. I have a book that I've written and published called How to Raise the Perfect Child or the Impossible Dream that we published. It's a guideline to pediatric care, and I brought a copy of it with me. It's about -- about 141 pages basically on preventive approaches to pediatrics.
Q. And would you -- would you think it would be a fair statement to say that pediatrics was your first love in medicine?
A. Oh, it's definitely -- it --
Q. And continues to be, perhaps?
A. Well, pediatrics is really what I love to do. If I could practice pediatrics, I'd be more than glad to do it at this stage of the game, but, unfortunately, that's not available.
Q. I understand. And the -- the health complication that you referred to earlier is not something which affects the things you do on a day-to-day basis now?
A. It basically affects prolonged bending --
Q. Okay.
A. -- over, and, unfortunately, in pediatrics, particularly in the neonatal area, there's a

lot of bending.
Q. I guess there's a lot of bending when dealing with small children.
A. Yeah.
Q. Okay. Thank you. Dr. Yoffe, why have you agreed to give this deposition here today?
A. Well, I agreed to give the deposition today because I think that we need to as a state and as a population make an aggressive attempt to stop the use of tobacco in children. This is why I wrote the paper. This is why I did the program initially, because I think that we have to do something about wiping out a totally preventable health problem in children. They're not able to make some of these decisions themselves, and at a young age they don't have the -- the social maturity and the healthwise maturity to -- to define what's going to be good for them in the future.
Q. And even though you know I represent Philip Morris Tobacco Company, even though I contacted you and asked you to appear today for this deposition, would you consider yourself working for the tobacco companies

anyway by your being here and giving testimony here today?

A. Well, quite on the contrary. I am an active anti-tobacco proponent, I have been an anti-tobacco proponent, and I will be continue to be an anti-tobacco proponent, not only for children, but for adults.

Q. Fair enough. You are being paid for your time spent here today, aren't you?

A. Yes, I am.

Q. And how does this amount you're being paid for your time this morning compare to the money which you would have made if you would have spent this same amount of time involved in giving this deposition by seeing patients in your office in Brenham?

A. I'm making less today than I would have made if I spent the time in Brenham.

Q. Have you ever given a deposition in which you did not expect to receive payment for your time?

A. No.

Q. And does the fact that you're being paid for your time this morning affect in any way the substance of the testimony you're here to

give today?
A. Absolutely not.
Q. Dr. Yoffe, let's go back to the tobacco prevention programs which you discussed in these two papers. Tell me about, if you would, please, your reasons for initially becoming involved in the pediatric causes of tobacco education and your initial reasons for actually writing these papers.
A. Certainly. Both as a pediatrician and as an allergist, it's pretty obvious that smoking is a health detriment. The use of tobacco and its composition is really a health problem in children. Certainly it is in adults, but it is in children, too. And it's the children that tend to get addicted, and once addicted, I don't need to belabor you or anyone listening to this deposition in terms of the difficulty of getting people off of an addictive substance such as nicotine and the other components.

I got involved because I have two children. I wanted to try to help them as much as I can besides helping the other children not get started on tobacco. I was

well aware of the fact that we did not have a good program in place that was a good preventative program. So I happened to be on the -- at the time I was on the faculty of Texas A&M. It was what we call an adjunct professor, and I laughingly tell my friends that means no pay and some work -- as an adjunct professor for the health and kinesiology department where basically if people have a medical question if one of the research projects, they're allowed to call me. And I worked with a gentlemen called Homer Tolson, who is a -- Dr. Tolson is a Ph.D. in statistics. He's also an anti-tobacco proponent, and he was kind enough to supply me with the statistical analysis that I lacked, the ability to do the statistical analysis on the paper.

The history of this is I went over to Texas A&M University and I researched what was available in terms of programs that had been put in place. I was not convinced that there was a good program in place that I was happy with. Therefore, I -- I basically designed my own program and with

Dr. Tolson's help tried to come up with a way of evaluating the success or failure of that program after a period of time that we thought would be reasonable so that we could not only supply it for the Brenham area, but also turn this over to other areas and other groups of doctors that might want to use this program in their attempt to limit the use of tobacco in children.

Q. Okay. Other than you and Dr. Tolson, who else, if anyone, was involved in the initial development of the program?

A. Well, there was really no one in the initial usage. As of the -- we did the program twice. We did it for a three-year period in Brenham, and then one of my thoughts was that someone could come and say this was only good in Brenham, Texas. So we wanted to use the same program and see if we could put it in place in a different kind of environment to see if it would work.

We went to College Station, which is a little bit more of a larger city, a more cosmopolitan area --

Q. Right.

A. -- and we put it in place in one of the junior -- junior high schools there at which time we used a Dr. Boren, who was of Dr. Tolson's acquaintances because Dr. Tolson was not available to do the work at that time, and he basically helped me again with the statistical analysis of the project.

Q. Okay. Dr. Yoffe, you've told us about the program and who was involved with the program. Please give us a discussion of the actual nuts and bolts of how -- of how the project was -- was conducted, the actual programs you implemented.

A. Well, let -- let me -- before I do that, if I may, tell you a little bit about sort of my philosophy, because I think that's involved in the program.

Q. Sure.

A. In today's society you're not going to get doctors to volunteer hundreds and hundreds of hours free time, most of us, because they're busy with their own private practices. So I had to design a program that would be, one, time effective, and two,

cost-effective, because there's a limited amount of money for health care, and certainly a limited amount of money available for this kind of health care.

I, therefore, designed a program that would take a limited amount of time, and other than the time that I put in as the -- sort of the advisor for the program, the other doctors only had to put in an hour's worth of time. I really tried to identify the different parameters that I thought that teenage children or prepuberty children would want to know about that might be effective in limiting their desire to smoke.

It turns out that Washington County is not unique, but is an ideal place to do a research project because being both rural in general but only having one large city in Washington County it was ideal because every child in the county other than those in private schools went to one middle school and it was great because we could do the one middle school -- we could supply the program to the one middle school and

therefore supply a goodly percentage of all of those children that lived in the county.

The program basically was designed with four parameters in view. One is you have to educate children. You have to tell them the factual data. Now, you don't have to put it in medical terms, but you have to supply them with some information on which to base their knowledge, and anyone who's dealt with sixth, seventh, eighth graders is well aware that they're capable of learning some information. They're not capable of learning the scientific terms that we might use, but they certainly can understand many of the concepts that we put forth in terms of why tobacco shouldn't be used.

So I recruited about five doctors per session. My session -- my whole program lasted two hours for the entire school year for the doctors, which meant I could get doctors to volunteer one hour or some of them two hours, and we recruited a variety of doctors and just -- if you don't mind, I'm going to refer to my paper a little bit so that I don't make an mistake in terms of

the order that we supplied them.

The session was the same in both schools -- both times we did it and every year we did it. We had -- we had -- got a general surgeon to talk about lung cancer, we got an internist to talk about emphysema, we had an ear, nose and throat doctor talk about oral and laryngeal cancer, and we had someone at the first session -- this whole thing lasted a grand total of one hour. We had an individual with cancer talk about having cancer. And that first session of an hour really was composed of two components. One, the educational part, which is pretty straightforward. These talks never lasted more than 10 or 15 minutes, because anyone that's taught kids of this age realize that they're not going to sit there and pay close attention for a long period of time.

Q. Right.

A. I instructed the doctors to give us short, succinct pieces of information and if the children went away with one bit of information per talk, I considered that a real success. Probably one of the most

important was what I call the emotional component, and that's the person having cancer. And if I may diverge from the basic description. We had a very nice lady who spoke the first two years in our project in Washington County who had laryngeal cancer and she spoke through a device from her neck. When she got up to speak, I asked for quiet because she was having trouble being heard, and there was not a pin to be heard dropped throughout the entire thing. She was there the first year. By the time she came back the second year, as I recall, she was pretty weak. She came back the third year, if I best recall the exact order -- excuse me. She did not come back the third year. We had somebody else come back the third year. And one of the students while we were giving the talk said where is this lady. And the fact of the matter is I told them that she had died, and you could hear an audible gasp throughout this whole group of people because they knew a person who had a disease resulting from cigarette smoking. And I thought that was pretty impressive as

a physician and as a parent. That was the first hour, those -- those speakers.

The second hour really was also composed of education, and we had an internist talk about heart disease in smoking, we had a pediatrician talk about passive smoking and what it does, we had an obstetrician talk about smoking in pregnancy and what it does to your child when you get pregnant or your fetus, if you want to look at it that way. I then had a third component besides the education and emotional, and that's I got some professional athletes. We had Alvin Hayes one time. We had a pro baseball player and an ex pro football player at other times, all pretty well-known to the local community, who talked about life's choices. And this is sort of motivational, if you want to look at it, that you can make a difference in your own life. And it was a short talk, but I think it made a difference in terms you could see the kids recognize professional athletes and the success that they had achieved.

Q. Right.
A. And then I finished up with what I call peer model, because if the drug companies and the -- excuse me -- tobacco companies are going to put clean-cut, all-American kids having fun or young adults having fun as models, I went to the high school and I got the head of the -- the captain of the football team to talk about why he has selected not to use tobacco from an athletic standpoint for the young men. Certainly, he was an attractive young male physically and so I wanted the girls to look and say, "Boy, he's really cool," and I did the same thing with one of the cheerleaders or honor students because I thought these would be ideal people for the young people to identify with. And that's basically called peer pressure, peer model, if you want to. And these are the four components that I identified that might be helpful to the program right off the top, that's education, that's emotional content, that's motivational content in terms of I can make a difference in my own health, and then it's

a peer kind of identification.

I had one other component that you might appreciate or other people might appreciate, and if you know kids, you know they like something for nothing. And I was very proud of the Brenham, Washington County, area because they were able to give me their support. I'm well aware that money is tight and money was tight back then. And I went to the different community places that I thought I could go to, but mostly to the private people, and I got donations of $50 each. From some of the bigger companies I got more. There's Sealy Mattress and there was Blue Bell Ice Cream and I can -- there were others, but I remember two specifically to give us more money with which we got T-shirts. They basically said, "Make Washington County Tobacco Free," and we had them purchased -- purchased them from a company that produced them at a fairly low profit margin because it was a local company, and we gave T-shirts to every child in Washington County and they could wear them. Some of the kids wore them all the

time. You'd see them around the community and the kids wore them, I think, proudly, particularly after -- after we gave them the talks.

Interestingly enough, I was able to get the local skating rink, movie and many of the restaurants to during Christmas and Easter vacation to give half-price admission and sometimes free admission for any child that had that. It was really what I considered a community approach in Washington County, and I was very proud, like I said, of the community for doing this. And that's basically what the program was.

Q. Okay. And is it correct that the entire program took no more than two hours?

A. That's correct. Now, my time --

Q. And developing the program took more time than that, but the actual implementation of the program --

A. That's right.

Q. -- before the young people took more -- no more than two hours?

A. That's exactly correct.

Q. Two one-hour segments on -- on either consecutive or -- or other spaced-out days?
A. The answer is yes, but let me -- let me qualify that. Washington County is a wonderful county, but it is a rural county. We did not have an auditorium big enough to hold every child in the middle school. So what we actually did is we gave the same program one hour, then we only had half -- for half of the children. We then did the same program another hour. So technically it was two hours, but the program if we had a room big enough is a one-hour program.
Q. Okay. I understand. Thank you.
Dr. Yoffe, after -- after conducting the program, what were the results that the -- that the program saw as far as the changes in attitudes or -- or changing of -- of moods of young people toward the use of tobacco?
A. We think we made a difference, and we have data to support that. We did not make a statistically significant difference because, according to Dr. Tolson -- and I apologize that I am not a statistician -- we

could not say that efficiently, but I do have one of the slides that we put up and I think it's pretty -- I don't know if you can get this on the camera. If you can, fine; if you can't -- it's on Page 79 of the first article, and if you can focus down here.

Q. Dr. Yoffe, even if -- even if he can, if you can discuss it, we can certainly --

A. Sure.

Q. -- show --

A. No problem.

Q. -- the jury the actual exhibit.

A. What we did is we evaluated these children in a way that I thought was fairly effective. We gave a questionnaire that asked about their attitudes towards smoking and tobacco use, including chewing tobacco, and information about what tobacco does to your body. We gave that before we did any kind of educational program. We then proceeded for three years to give it at the first of each school year and at the end of each school year, and we gave it because we thought we would get some information about what the children were learning and what

they were taking away with them.

One of the things in a scientific study is you have to have what we call a control group because information may change within an entire community, and if you're going to find out whether what you're doing makes a difference, you to have a control. I was fortunate enough that we have two contiguous or adjacent counties. One is -- I'm sorry if I don't remember the name of the counties, but Navasota, Texas, and Bellville, Texas, are the -- the biggest towns in the counties next to us --

Q. Okay.

A. -- to Washington County, and it turns out that every child in their counties goes to one middle school. So by evaluating the childrens -- the children in Navasota Middle School and Bellville Middle School, we had a control. I did some demographic studies to show that basically there is no difference or not much difference between the children that go to the Navasota schools and Bellville schools and Washington County schools. So we gave that same survey to the

children in the Navasota school district for three years at the first and the end, the Bellville school district at the first and the end, and the Brenham school district at the first and the end. We then decided after reviewing our data that we would get the best information by basically following the children that had had the program for three full years. And we, in fact, did that, and we found that we made a difference, certainly in attitudes, and even though we couldn't call it statistically significant, it certainly merited follow-up work because the cost is so low, the time effort is so low, and you're getting involvement not only from the doctors locally, but from the entire community.

Q. Dr. Yoffe, you mentioned the low cost and you mentioned the -- the small amount of time that it takes to implement the program which we've already established at two hours. What actually, if you had to estimate, would be your best guess of actually how much the program cost to implement per school?

A. Well, I can't give you an actual number, because I don't know, because I actually went out and recruited the different companies to supply money. But I would think we could -- the only cost really is the cost of the T-shirts, because everyone else is donating their time because you make it a community program. And that's one of the -- one of the parameters when I put the study together -- or the program together, I wanted to be sure that the communities supported it. And, in fact, I found that every community -- I talked to several doctors in Bellville and Navasota, they wanted me to come over to their communities and help them establish the same type of program because they understood that it didn't take a lot of time, it was easy to do, and it didn't cost much.

Q. So would it be fair to say that well under $10 per -- per student, the cost of the T-shirt?

A. It's the cost of one -- the cost of one T-shirt per student.

Q. Okay. Okay. In a -- in a lay person's

terms, in a non-doctor's terminology, what did the program show about the attitudes of youth towards smoking?

A. In a general summary, it showed, one, the children in the Brenham school district where we had had the -- the study, if I can -- if I can divide this -- I can't really show this statistically, but I can give you my general feeling.

Q. Okay.

A. Is, one, they knew more information about the effects of smoking than did the other schools where we did not educate the children. And, two, it's my conviction that they had more of an anti-smoking attitude. Now, had we been able to, we would have gone back and perhaps done this a little differently, because we could have divided those somewhat differently. We could have also cross-matched -- and this is what Dr. Tolson has conveyed to me, is that in order to show the statistical significance, you have to be able to take a child and follow that individual child through the entire time of the educational program.

And, unfortunately, with children moving in and out of schools and parents leaving communities going from one place to the other while others move in, you can't make the conclusions that you would like to make in this kind of study. But we do have other -- he does have other ways of designing this that would allow us to make better conclusions, and the questionnaire could be done differently to allow us to answer the specific questions about percentages that you've asked about.

Q. Okay. The exhibit which we've marked as the second exhibit, what -- what program does it discuss? Does it discuss one in a different town or follow-up on the first program?

A. It's the identical program, and I'll try to say this the best way I can. If I were reviewing this data and I tried to punch a hole in it, one of the things I would say is it's only Washington County that you can do this program, other counties aren't going to allow you to do it. They're not interested in it, they don't want it done, the schools are not interested, and therefore, my -- my

response would be let's do it in another district.

We went over to College Station, Texas. I approached some people in the school district. They were excited about the program. They wanted us to do the program. And, in fact, the school itself -- it was called Jane Long Middle School is where we did the program. We got doctors with no trouble at all to come in. I again MC'ed the program because I felt like I needed some kind of stability, although anyone could have done it with a little bit of training. And we put the program on just for one year, so we don't have the statistical data of a three-year program, and that was not the purpose.

What we really wanted to do was to go in and show that the program would be accepted by the students --

Q. I see.

A. -- and the community would be able to use it if they so desired and did they desire it, and the answer was yes to all of those questions.

Q. How did the community and the students accept the program?
A. It was great. The -- the school principal was very excited about the program, because I met with him before we did it. The teachers were interested. I had absolutely no trouble recruiting physicians, and, in fact, had to turn away some physicians that wanted to be a part of the program. Again, it only took them -- well, it actually took them two hours. Again, we didn't have quite a big enough room for the entire student body, but it only took them a short period of time. And I think they actually enjoyed giving something back to their community that they knew as physicians would do a lot towards taking care of these people's health --
Q. Okay.
A. -- as they got older.
Q. Okay. Were you also required to go and seek private support from the College Station community businesses in the same manner in which you raised money in Brenham?
A. I didn't because the person at the school

district was able to recruit some funds --
Q. Okay.
A. -- from which to buy all the T-shirts, and, in fact, she was the one that got the T-shirts for me in this case, but we had the same type of T-shirts, and I always laugh about this. It's amazing what good business people can do when you think about it. They had them printed up in the school colors at the different schools, which I thought was extremely innovative. I hadn't thought of that, certainly in the College Station area.
Q. That sounds like a good idea. Were you ever able to conduct follow-ups to the programs in Brenham and College Station?
A. I did not because we couldn't recruit any money to do any of the work, and I really, quite frankly, felt that I had supplied about as much of my time and energy towards recruiting money. I would have gladly given my time to run the program again.
Q. But you didn't feel like you were ready to bankroll -- continue to bankroll the program?
A. Bankroll either -- either money or time.

Q. I understand.
A. And we did, in fact, try to recruit money from the program, and that's one of the reasons that I agreed to talk with you here today because of discouragement in terms of being able to recruit even a small amount of money to provide a program that I thought was cost-effective and time effective and potentially a good program for any county in the state.
Q. That's what I'd like to ask you about now. I'd like to ask you about your efforts to raise money to support this successful program from the State.
A. Well, I can't give you the names of the people that my cohorts at Texas A&M tried to find money from.
Q. Okay.
A. But I do know that we did, in fact, talk to health and kinesiology, I discussed it with Dr. Tolson, we had a couple of people looking into grants and everything. We could not get any there. But I can tell you that I personally also act as the public health officer for Washington County. I do

this because no one else will do it, in my opinion, for which I am reimbursed a grand total of $25 a week. So it certainly isn't from a financial standpoint that I receive money.

Q. Sure.

A. But it does put me in contact with the State of Texas Public Health department in Temple, which is our district. I did call the people there and I talked to them about possibly getting us some kind of money to stop tobacco usage in Washington County, and I was met with a very polite but flat there's no money available. And I to this day don't understand it. I thought it was a poor use of our funds, and I felt like since we had already developed a program at no cost to the State, certainly minimal encouragement for a program like this, and not necessarily just mine, but other doctors who have devised other programs should, if nothing else, be supported in terms of an attempt to diminish tobacco use in children by the State.

Q. Dr. Yoffe, why, in your opinion, do you --

do you think the State refused to fund this successful program?

A. I have no idea, and I -- and I -- it would be purely conjecture for me to talk about it.

Q. Sure.

A. I don't know whether, one, they didn't have money; two, if the money was earmarked for other programs, and if it was, I think that there is a misappropriation, if you'll excuse that terminology, of funds in a way that we could make them more cost-effective in the long run for the Public Health Department, and I think the fact that the State of Texas is suing the tobacco industry means that they basically agree with me.

Q. Dr. Yoffe, do you think that the State of Texas has done all it could do to educate youth and adults about the risks associated with smoking?

A. No, I do not.

Q. Do you think that the State has done all it should do to educate young people and adults about the same things?

A. No, I do not. And I think that -- if you'll

excuse my diversion from really the exact question. I do hope that if any kind of settlement is reached or any kind of court cost is reached, that the State will do more towards stopping tobacco usage in the small children because that's really -- anyone that knows much about tobacco usage knows that nicotine is a terribly tough addiction to stop. It can occur, but in pediatrics just as in the book that I wrote and in the anti-drug program that I put together and this program, it's a lot better to prevent something from occurring than try to go back and -- and salvage a person by getting them off nicotine.

Q. Dr. Yoffe, to summarize what you've already said and to ask one further follow-up question, after having developed a program that was proven to be successful in communities like Brenham and College Station and which you thought would be successful in bigger cities or other small communities like that, when you went to receive -- when you went to request money from the State, it's correct that -- that you never -- you

never were able to get any funding from the State; isn't that correct?
A. That's absolutely correct.
Q. Were you ever offered any alternative methods by the State for acquiring funding for these programs?
A. No. I -- I simply talked to my -- the doctor who is in charge of the district in Temple, was told there was no money there. Talked to the -- the nonphysician in charge of the area, was told the exact same thing. And perhaps I should have pushed it, but I didn't at that time. I felt that would be the appropriate person to go to.
Q. Do you remember anyone associated with you or yourself personally perhaps ever approaching a legislator for request for funding directly from the state legislature?
A. I did not and I don't know of anyone who did.
Q. Okay. Do you have any reason to believe that those requests would have been any more useful than -- than the ones that you did make?
A. I don't think so. I really don't know much

about how our legislative process works perhaps I'm inadequate -- --

Q. Okay.

A. -- in terms of knowing that, but I think that basically it has to go through the Public Health Department.

MR. NELSON: Okay. Thank you, Dr. Yoffe. I appreciate your time. I have no further questions at this time.

VIDEO TECHNICIAN: Off the record at 10:03.

(DEPOSITION CLOSED)

CHANGES TO DEPOSITION

No erasures or obliterations of any kind are to be made to the original testimony as transcribed by the deposition officer. Any changes in form or substance which the witness desires to make shall be furnished to the deposition officer by the witness, together with a statement of the reasons given by the witness for making such changes.

Please enter the page number, line number, and the reason for such change or correction.

Page/Line	Correction	Reason for Correction

STUART YOFFE, M.D.

WITNESS' SIGNATURE

STATE OF _____)
)
COUNTY OF _____)

I HEREBY CERTIFY that I have read the foregoing deposition and that this deposition, together with my corrections, is a true record of my testimony given at this deposition.

_____
STUART YOFFE, M.D.

SUBSCRIBED AND SWORN TO BEFORE ME this the _____ day of _____, 19____.

_____
Notary Public in and for
State of _____

REPORTER'S CERTIFICATE
IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

THE STATE OF TEXAS, Plaintiff
VS.
THE AMERICAN TOBACCO COMPANY; R.J. REYNOLDS TOBACCO COMPANY; BROWN & WILLIAMSON TOBACCO CORPORATION; B.A.T. INDUSTRIES, P.L.C.; PHILIP MORRIS, INC.; LIGGETT GROUP, INC.; LORILLARD TOBACCO COMPANY, INC.; UNITED STATES TOBACCO COMPANY; HILL & KNOWLTON, INC.; THE COUNCIL FOR TOBACCO RESEARCH-USA, INC. (Successor to Tobacco Institute Research Committee); AND THE TOBACCO INSTITUTE, INC., Defendants

CIVIL ACTION
NO. 5-96CV91

* *

STUART YOFFE, M.D.

* *

I, GLENDA FULLER, Certified Court Reporter for the State of Texas, do hereby certify that the facts stated by me in the caption hereof are true; that the said witness did make the above and foregoing answers in response to questions propounded as shown; that I did, in shorthand,

report said proceedings, and that the above and foregoing typewritten pages contain a full, true and correct computer-aided transcription of my shorthand notes taken on said occasion.

I further certify that I am not in any capacity a regular employee of the party in whose behalf this deposition is taken, nor in the regular employ of any attorney of record; and I certify that I am not interested in the cause, nor a kin or counsel to either of the parties.

WITNESS MY HAND this the 3rd day of September, 1997.

GLENDA FULLER, CSR
Certified Court Reporter
For the State of Texas
CSR No. 1042
Expiration Date: 12-31-98

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